IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Regular Second Appeal No. 2054 of 2001
Vidyawanti Vs. State of Haryana and others

and

Regular Second Appeal No.179 of 2005
Vidyawanti Vs. State of Haryana and others

Date of decision: February 1, 2007

Present: Mr. B.L.Gulati, Advocate for the appellant.

Mr. Jitender Chauhan, Addl. Advocate General, Haryana
for the respondents-State.

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JUDGMENT

M.M.Aggarwal, J.

The above-said two appeals are being disposed of together.

Regular Second Appeal No.2054of 2001 is against judgment dated 22.1.2000 of Addl. District Judge, Kurukshetra, whereby appeal filed by the plaintiff-appellant against judgment of Civil Judge (Junior Division) Kurukshetra dated 20.4.2000 was dismissed.

Plaintiff now appellant had fled suit for declaration on the ground that she was appointed as Craft Teacher on regular basis in the year 1976 and had then retired on 31.3.1994. She was entitled to leave encashment, gratuity and pensionary benefits. That suit was dismissed and appeal filed by her was dismissed.

This appeal was earlier dismissed by this Court vide order dated

May 16, 2002 but Hon'ble Supreme Court vide judgment dated October 31,2003 in Civil Appeal No. 8541 of 2003 (arising out of SLP(C) 19026 of 2002) had remanded the matter in view of the decision in RSA No. 1859 of 1998 of this Court and also judgment of the High Court reported in **Risal Singh and others Vs. State of Haryana and others (1993 (2) SLR 764) and Rati Ram Vs. State of Haryana and another (1995(2) SLR 691).**

Second Regular Second Appeal No.179 of 2005 was filed by the present appellant against judgment of the Courts below whereby suit of the plaintiff that she was entitled to leave encashment was dismissed and appeal filed by her was also dismissed.

On behalf of the appellant it was argued that service of the employees of the Panchayat, constituted under the Panchayat Act, was a civil service. A Division Bench judgment of this Court reported as **Rati Ram Vs. State of Haryana and another 1995(5) SLR 691** had been relied. Another judgment of this Court reported as **Risal Singh and others Vs. State of Haryana and others 1993(2) Services Law Reporter 764** was relied and it was argued that employees of the Panchayat were entitled to pensionary benefits.

It comes out that the Division Bench of this Court in **Rati Ram's case (supra)** had placed reliance on the judgment of the Hon'ble Supreme Court reported in **Mathuradas Mohanlal Kedia and others Vs. S.D.Munshaw and others AIR 1981 SC 53.** From perusal of the judgments relied, it would come out that Hon'ble Supreme Court had held that members of Gujarat Panchayats were government servants. That was a case under the Gujarat Panchayats Act.

On behalf of the respondent-State, it was argued that petitioner

was just a craft teacher. That post was not covered in Appendix -A of The Punjab Panchayats Samities and Zila Parishads Rules, 1965, as were applicable. It was argued that the post of the petitioner was never provincialised and, as such, petitioner was not entitled to any retiral benefits. In this connection judgments of this Court reported as **jagdish Chander Vs. Punjab State 1994(3) SCT 439 and Raj Kumar Ahlawat Vs. State of Haryana 1997(2) SCT 44** had been relied.

In the case of **Rati Ram (supra)** Rati Ram was a Gram Sachiv and was absorbed in the Govt Service whereas in **Risal Singh's case (supra)** there had been provincialised posts w.e.f. 26.11.1993, which is not the case here.

From perusal of the judgment of this Court in RSA No. 1859 of 1998 reported as **State of Haryana and others Vs. Vidyawanti 2002(2) RSJ 588** and referred to by the Hon'ble Supreme Court in its judgment dated October 31,2003 in Civil Appeal No. 8541 of 2003, it would come out that that case was regarding some increments. It was not regarding pensionary benefits. On close scrutiny of the Punjab Panchayat Samitis and Zila Parishads Services Rules, 1965 it would come out that the post of Craft Teacher is not mentioned in Appendix A and, therefore,this was was not covered under the rules.

When the post of Craft Teacher was not covered under the Rules and was never provincialised, then the State shall not be liable to pay pensionary benefits.

During the course of arguments, it was admitted that all other claim of the plaintiff-appellant had been settled and now only the dispute was regarding leave encashment, gratuity and pension.

In the facts and circumstances of the case, no infirmity can be found in the judgments of the courts below. As such, there is no merit in the appeals and the same are dismissed.

(M.M.Aggarwal)
Judge

February 1, 2007
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